

**COMMENTS OF THE GEORGE WILEY CENTER
in Docket 4890
re Narragansett Bay Commission's
General Rate Filing to Collect Additional Revenues of \$6,388,424
filed 10/10/18**

On behalf of the **George Wiley Center (GWC)**, the Rhode Island Center for Justice (CFJ) respectfully submits the following comments in response to the **Narragansett Bay Commission's General Rate Filing filed on October 10, 2018 in Docket 4890.**

The George Wiley Center:

GWC is a community-based non-profit focused on low-income consumer rights and concerns. GWC has been at the forefront of utility access issues. In the gas and electric utility context GWC worked for ten years to enact the Henry Shelton Act, passed in 2012, advocated for a tiered discount for low-income consumers in the National Grid rate case filed in 2017, and continues to advocate for an income sensitive rate structure (percent of income plan) as a next step building on the recently enacted tiered discount for gas and electric service. For over 25 years GWC has worked to identify policy issues affecting low-income consumers and has assisted low-income consumers facing utility termination. GWC has participated in Public Utility Commission and Division of Public Utility Commission proceedings, bringing forward the concerns and perspectives of low-income consumers. GWC also advocates for improvements in law and regulations on behalf of low-income consumers. As a result of this work, GWC is widely recognized as the point agency for consumer rights matters pertaining to utility services, receiving hundreds of requests for assistance each year from households at risk of or experiencing utility shut off. While historically GWC has focused most often on issues relating to access and affordability of electric and gas utilities, the emerging national issues relating to access to clean, safe, affordable water for low-income consumers has caused GWC to request intervenor status in this docket to encourage the inclusion of the perspectives and concerns of low-income consumers in the deliberation on this docket.

The Rhode Island Context:

GWC appreciates the opportunity to participate in this important docket relating to access to clean, safe, affordable water in Rhode Island. Because of the economic and regulatory structure of the water supply and waste water treatment systems in Rhode Island, access to clean, safe, affordable water is inextricably linked to the costs to residential consumers of waste water treatment. The Narragansett Bay Commission residential consumer waste water treatment bill is largely calculated

based on the intake of water at the water supply meter and thus rising costs for waste water treatment affect the consumer cost of access to clean, safe, affordable water itself. The two cannot be separated. For low-income property owners, the potential to lose home ownership through a sale to enforce a lien imposed for unpaid waste water treatment bills can contribute to Rhode Island's homelessness problem. For low-income renters, rising costs for water and waste water treatment can similarly exacerbate the already unaffordable rent burden facing many low-income Rhode Islanders as property owners pass increasing water costs on to rent-burdened tenants. This can contribute to the eviction crisis as low-income renters find themselves even less able to pay rents that may be elevated in part by increasing water and waste-water treatment costs levied on the owners of rental properties.

The National Context for Consumer Assistance Programs in Water Utilities:

While the widely reported breakdown of critical municipal water infrastructure in places like Detroit are the stuff of sensational front-page news reports, in the 21st century the United States as a whole faces a much quieter, longer term and more widespread challenge in maintaining the affordability of clean, safe, healthy water. The United States Environmental Protection Agency (EPA) has recognized that access to clean affordable water is challenged:

“The business of running a drinking water or wastewater utility is complex, with a variety of fixed costs associated with providing public services. Utilities must cover the cost of daily operation and maintenance expenses (including energy, labor, chemicals, and other supplies) to ensure continuous service that meets applicable federal and state public health and environmental standards. In addition, utilities plan for long-term capital and operational investments such as:

- Repairing and replacing aging infrastructure.
- Preparing for drought conditions and water quantity issues.
- Increasing utility resiliency and security.
- Complying with new rules and regulations.

Estimates for repairing and replacing aging infrastructure alone amount to a trillion dollars in investment needs collectively facing the industry in the next 25 years (AWWA 2012)... As more and more utilities use best management practices such as asset management to forecast costs needed to sustainably manage their utility, these costs may increase. **Rising costs for replacing aging infrastructure will be accompanied by higher bills for customers. As a result, the need for affordability programs will increase over the next several decades....** Utilities and local governments have the authority to work into their business model a safety net of one or more CAPs [Consumer Assistance Programs] that reduce customers' risk of losing water service or incurring financial penalties.” (emphasis added)¹

Not only has the EPA recognized that infrastructure improvement and replacement will inevitably lead to significantly rising water utility costs in the coming years, the EPA is also recognizing Consumer Assistance Programs (CAPs) as a sound method for water utilities to employ to help

¹ [Drinking Water and Wastewater Utility Customer Assistance Programs](#), USEPA, April 2016, p. 5.

low-income consumers manage these rising costs while at the same time enabling the water utility to fulfill its unique public health mission:

“Households on fixed or lower incomes may sometimes have difficulty paying their bills; plus, any family, regardless of household income, could face an unexpected crisis (e.g., job loss, illness, death, divorce) that puts them in a temporary hardship situation. For some types of utilities, nonpayment would lead to a prompt termination of service, and customers would face inconvenience and might explore substitute options. In contrast, a water service customer facing disconnection also faces immediate health and safety threats. Therefore, water utilities across the United States have demonstrated a commitment to helping low income customers and customers in crisis delay and avoid disconnection. Many communities have decided that each resident should have the same access to clean and safe water that everyone else in the community enjoys, even if paying for the service is beyond their immediate means. **It is water’s special status as essential to public health that makes ensuring access more than a charitable cause.**”

Ibid. 3.

Finally, the EPA has recognized that there is a very strong business case for water utilities to employ Consumer Assistance Programs to sustain consistent bill payment, even if that payment is a reduced payment, in order to avoid the business expenses and public health consequences associated with termination of water service. By employing Consumer Assistance Programs “[u]tilities can save on administrative and legal costs associated with collecting on debts, disconnection, and reconnection of water services.” **Ibid.** 4. Reducing the water treatment payment for low-income consumers, or using a tiered system and arrears forgiveness, has been demonstrated to actually increase revenue. The most important factor in an affordability program is the prioritization of repeated, regular payments, which, even if the customer pays only a reduced rate, ends up being more lucrative in the long run because consumers who might otherwise create bad debt for the utility are able to stick to a consistent payment schedule.

The Narragansett Bay Commission Filing:

On behalf of low-income consumers, we are grateful for the efforts of the Public Utilities Commission (Commission) and the Division of Public Utilities and Carriers (Division) in working to address the challenges faced by low-income utility consumers. As we have stated in other dockets, we are particularly appreciative of the ongoing careful examination of utility affordability for low-income Rhode Islanders and the understanding demonstrated by the Commission and the Division that these issues are complex and evade easy solutions.

The challenges facing low-income consumers are very real. GWC has worked with thousands of households facing the loss of their gas and electric utility services. The evidence is clear that thousands of Rhode Islanders do not have secure access to utility service due to the intersection of lower median incomes than neighboring states with the combined burden of high housing costs and utility costs. Many of these low-income consumers are disabled or elderly, living on fixed

incomes already inadequate to pay for housing, utilities, and basic needs. Others are working families with young children facing the increasing costs associated with childcare. The downstream negative impacts of loss of utility services are as well-documented as they are devastating: loss of housing, negative health outcomes, economic instability and unemployment, school and family disruption. Against this backdrop it is critically important that advocates for low-income consumers as well as regulators carefully examine all utility rate increases, not just the electric and gas rates that have traditionally garnered the most attention.

NBC's proposed new rates are designed to generate additional revenue in the amount of \$6,388,424, or 6.33%, to support a total revenue requirement of \$107,249,751 for NBC. According to the NBC filing, if the proposed rates are approved an average residential customer, using 150 gallons of water per day, will experience an increase of \$26.63 in their annual bill from \$491.48 to \$518.11. NBC's Docket 4890 filing also highlights an additional across-the-board rate increase of 2.98%, which will result in an increase of \$14.21 annually to an average residential customer should the pending Docket 4885 relating to NBC debt service also be approved. The combined impact for the average residential customer of the two pending filings would thus be an increase of 9.31% or \$40.84 per year.

While these two contemporaneous increases do not immediately sound the alarm bell of water unaffordability heard by regulators and consumers in some other parts of country, it is prudent for advocates for low-income consumers to become actively involved now, while there is still an opportunity for the water utilities, regulators, consumers and policy-makers to work together to mitigate the impact on low-income consumers of water and water treatment rate increases. GWC believes that it is important for all parties to work together in this docket and in the coming years to carefully plan for the impact of such long-term infrastructure projects as the Combined Sewer Overflow (CSO) Phase III on low-income consumers. The cost of full implementation of this project is cited in the NBC filing in Docket 4890 as \$771.9M in 2018 dollars (Testimony of Ms. Kathryn Kelly, P.E., p. 2) with an estimated completion date of 2041. The immediate impact of the pending rate increases, and the longer-term impact of the predicted rising operations and infrastructure costs being experienced by water utilities across the nation, call for thoughtful examination of mitigation strategies for low-income consumers.

The NBC Proposal for a Hardship Fund:

GWC recognizes that the waste-water treatment infrastructure to be implemented in CSO Phase III is the subject of RIDEM and EPA legal requirements and a Consent Decree. It is indisputable that effective storm water and sewer infrastructure are critical to the health of consumers and to the health of one of Rhode Island's greatest assets, Narragansett Bay. These costs address critical public health priorities. It is appropriate that in light of this reality the NBC filing foreshadows that in the coming years the impact of rising operating expenses and infrastructure costs, taken together, will require some new and innovative approaches to ensuring that all consumers, at every income level, have secure access to clean, affordable water by proposing the creation of a Hardship Fund (Testimony of Harold Smith, p. 2).

Although the proposed Hardship Fund is very modest, directing \$7,500 of NBC's \$796,362 projected rate year late fee revenue to relieve one-time hardship situations, it is a critically

important step into the domain of Consumer Assistance Programs on the part of NBC. The Hardship Fund is a laudable proposal and recognizes the need for Consumer Assistance Programs to mitigate the impact of the proposed rate increase and future rate increases.

Whether the Hardship Fund as proposed, or in combination with one or more of the many other CAPs being implemented around the country, is the appropriate remedy to mitigate the impact of NBC rate increases on low-income consumers is an issue that requires further examination. NBC should be recognized for taking this very responsible step to engage the topic of mitigation strategies. GWC applauds the NBC proposal to establish a Hardship Fund and would like to work with the parties to also examine the appropriateness of other Consumer Assistance Programs for NBC. CAPs can effectively support the NBC dual public health mandate and business imperative of (1) ensuring that all Rhode Islanders maintain consistent, stable access to safe water and (2) that the costs of collection activities and imposition of liens for those for whom higher rates are demonstrably unaffordable be avoided.

Consumer Assistance Programs and Hard to Reach Low-Income Consumers:

The proposed Hardship Fund directly addresses the needs of low-income consumers who own the home they live in. This important category of consumer includes but is not limited to elderly consumers and consumers with disabilities living on fixed low incomes. These low-income consumers are directly affected by waste water treatment rate increases as they are direct ratepayers. There is another category of low-income consumers which is also important to consider however. Low-income tenants are significantly, albeit indirectly, impacted by water treatment rate increases. Because water treatment bills are directly paid by property owners and not tenants, it is also important to develop CAPs that provide support to the lowest income consumers who may be affected by rising water treatment costs through higher rents. Although this requires a two-step analysis it is equally critical as a mitigation strategy for increasing costs.

Work has been done nationally to identify effective methods for providing Customer Assistance to low-income tenants indirectly affected by water and water treatment rate increases:

“To address affordability concerns, many utilities have developed CAPs that use bill discounts, special rate structures, payment plans, and other means as approaches to help financially constrained customers maintain access to drinking water and wastewater services (EPA 2016). These programs provide much needed assistance to households in need. However, they generally focus on customers who receive bills directly from the utilities. Nationally, this covers only about 60% of the low-income population of utility customers. The remaining 40% live in single-family rental units, multi-family buildings, or public housing, and pay for their water as part of their rent or home maintenance fee (PUMS 2014). In general, these residents fall between the cracks of traditional utility assistance, communication, and outreach activities.

Many water utilities wish to find effective ways to assist these H2R customers, who—even if they do not directly receive a water bill—nonetheless indirectly face fiscal hardships because of the rapidly escalating costs of essential water-related services. Water rate hikes necessitated by numerous factors—including infrastructure renewal, new supply development, revenue gaps arising from declining water sales, regulatory

requirements, or storm water-related consent decrees—are typically embodied in higher rents charged by landlords and higher fees charged by homeowner associations (HOAs).”²

Although it takes an extra step to identify solutions that directly provide relief to the lowest-income consumers who are tenants rather than homeowners, there are available solutions that are proven to work. One example is providing vouchers directly to low income tenants in the water treatment service area, through community partner agencies such as Community Action Programs and public benefits programs that have already done income eligibility screening and verification of eligible low-income tenants. The voucher strategy can be successful in providing rate relief and can lower the administrative burden by working through community agencies.

Data Collection:

As NBC embarks on the implementation of the Hardship Fund and/or other CAPs it will be essential that data be collected to enable a full examination of the efficacy of such programs. It will also be important to understand the proportion of low-income consumers adversely affected by waste water treatment liens. Further data relating to the quantum of uncollected bills and costs for collection activities will be needed to evaluate the relative benefits of various CAP options. For example, water utilities can limit the administrative costs of CAPs by entering into partnerships for CAP implementation with other programs that are already administering means-tested programs to low-income consumers in the water utility service area. Gathering information from such programs in the NBC service area at the aggregate level may serve as an initial cost-saving substitute for data collection on the number and profile of low-income consumers in the NBC service area. These issues, like the selection of the most appropriate CAP or CAPs, require further examination and could form the basis of some very important discussions among the parties in service to developing solutions for low-income consumers.

Conclusion:

While assessment of NBC’s rate filing requires weighing many competing priorities, we urge that serious consideration be given to putting mitigation strategies, such as the Hardship Fund and other appropriate Consumer Assistance Programs, in place with the goal of reducing water cost-related housing disruption for low income tenants and homeowners and ensuring access to clean, safe, affordable water for low-income consumers.

Respectfully submitted,

² [Customer Assistance Programs for Multi-Family Residential and Other Hard-to-Reach Customers](#), Water Research Foundation, 2017, p. xxi-xxii.

A handwritten signature in dark ink, appearing to read "Jennifer L. Wood", written in a cursive style.

Jennifer L. Wood

On behalf of the George Wiley Center